

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-CR-156

JODI L. JOSEPH,

Defendant.

ORDER GRANTING MOTION FOR COMPASSIONATE RELEASE

On June 20, 2018, Wisconsin State Troopers stopped Defendant Jodi L. Joseph's car as part of an ongoing investigation into drug trafficking. Joseph was driving, and she and her passenger, Dalton Flessert, were returning to their home in Manitowoc from California, where a locked safe containing some 26 pounds of methamphetamine had been placed in the trunk of Joseph's car for delivery to distributors in Wisconsin. The methamphetamine was 99% pure and had a street value of at least \$500,000. Joseph had agreed to transport the safe that she knew contained a significant quantify of a controlled substance in return for a quarter pound of marijuana.

Taking into consideration her cooperation and her significant health problems, Joseph was allowed to plead guilty to attempted possession with intent to distribute marijuana and sentenced to 14 months in the custody of the Bureau of Prisons (BOP). A separate charge of possession with intent to distribute more than 50 grams of methamphetamine and a corresponding conspiracy count, each of which would have subjected Joseph to a mandatory minimum sentence of 10 years in prison, were dismissed as part of the plea agreement. Currently before the court is Joseph's motion for compassionate release. Joseph notes that it has been more than thirty days since she

filed her administrative request for release with the warden of the facility where she is currently housed.

In support of her motion, Joseph notes she has completed roughly half of her sentence. She contends that two reasons warrant her immediate release. First, she suffers from numerous serious health issues, most significantly Type 1 Diabetes Mellitus, for which she is insulin dependent. While on pretrial release during the pendency of the case, Joseph had her pancreas and spleen removed at UW Hospital and was hospitalized several times thereafter. She is currently taking eight different medications. In addition to her diabetes, Joseph's medical records indicate she has a variety of other medical conditions and surgeries, including treatment for chronic pancreatitis, a pulmonary embolism, a cholecystectomy (gall-bladder removal), a hysterectomy, a splenectomy (spleen removal), an appendectomy, and a left ankle reconstruction. These health issues, Joseph argues, make her highly vulnerable to the effects of COVID-19 and raise a serious risk of death in the confined and crowded setting of prison.

The second reason her motion should be granted, Joseph contends, is that the prison where she is incarcerated has been significantly impacted by COVID-19. Joseph states she is housed at FMC-Carswell in Fort Worth, Texas. All visitation at Carswell is cancelled, she notes, and according to the BOP website, FMC-Carswell reports one confirmed inmate case and one inmate death due to COVID-19. She argues that this shows the virus has infiltrated FMC-Carswell and suggests that further infections are almost certainly inevitable given limited testing, the asymptomatic nature of the virus in many people, the crowded conditions within any prison, and staff members going back and forth into the community every day.

Upon receipt of Joseph's motion, the court invited both the Government and U.S. Probation to respond. The Government advised the court it would take no position on Joseph's request and leave the decision for the court's discretion. Probation noted that according to the BOP website,

as of May 27, 2020, FMC-Carswell, which is an administrative security federal medical center with an adjacent minimum-security satellite camp, has no active positive cases and one death from COVID-19. Sheboygan County, Wisconsin, on the other hand, where Joseph plans to live with her niece upon her release, reports 78 positive cases and three deaths. Probation also states that Joseph is due to be released on September 22, 2020, and it has already approved her release plan in preparing for her release on that date.

As applicable here, 18 U.S.C. § 3582(c)(1)(A)(i) authorizes a sentencing court to reduce a defendant's sentence upon a finding that "extraordinary and compelling reasons warrant such a reduction." The court finds such reasons exist in this case. Joseph's serious health condition makes her particularly vulnerable to the COVID-19 virus. Although the BOP appears to be taking extraordinary steps to prevent an outbreak of the virus, its spread within a prison environment, if an outbreak occurs, could be rapid and deadly for Joseph. It is true that there seems to be proportionately fewer COVID-19 cases in Fort Worth than in Sheboygan, but the lack of testing may mask the degree to which the virus may already be present in the community among asymptomatic persons.

Joseph, now age 51, has already served half her sentence, and little is to be gained by holding her in an environment in which there exists a heightened risk to her health. She has no history of violence and poses no genuine risk to the safety of the public. Any attempt to re-involve herself in the drug culture, assuming it does not kill her, can be prevented by the conditions of supervision the court has imposed. And while the magnitude of the originally charged offenses is great, considering the amount of methamphetamine Joseph was transporting, her culpability as a courier, kept largely in the dark as to the amount she was transporting, is reflected in the reduced charge to which she ultimately entered her plea of guilty.

Based on the foregoing, the court finds that there are extraordinary and compelling reasons that warrant a reduction of Joseph's sentence. The motion is therefore granted and her sentence is reduced to time served. Joseph is to be released upon transportation being arranged for her from FMC-Carswell in Texas to her niece's home in Sheboygan, Wisconsin.

SO ORDERED at Green Bay, Wisconsin this 17th day of June, 2020.

s/ William C. Griesbach
William C. Griesbach, District Judge
United States District Court